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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of The United States

JANUARY TERM, 1973

No. 72-1132

ALMA C. JACOBS, ADMINISTRATRIX
OF THE ESTATE OF
REGINALD GENE JACOBS, DECEASED,
Petitioner

vs

WINSTON FRANKLIN CLARKE-WHITE,
Respondent

REPLY BRIEF IN SUPPORT OF A PETITION FOR A WRIT OF CERTIORARI TO THE FRANKLIN COUNTY COURT OF APPEALS

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REPLY BRIEF
STATEMENT OF THE CASE

It should be noted that in this cause, the lower court jury did not resolve the issue of liability in favor of the Respondent, as stated in Respondent's Brief in Opposition. No separate issues were submitted to nor decided by the jury. The verdict for the Respondent could have been determined solely on the question of damages to next of kin of decedent, since the petitioner's infant was eliminated as a next of kin by the lower court.

The petitioner was unable to establish dependency of the father of the decedent, who had previously separated from decedent's mother, and there was a serious question as to the dependency of the decedent's mother since she had received welfare for years prior to his death and was still drawing regular welfare payments

at the time of the original trial. However, there could be no question on the dependency of the decedent's infant daughter, but lower court would not admit evidence on this dependency.

Our lower courts refused to reconsider the trial courts decision, on a basis of *"stare decisis."* We have now the admission of counsel for the Respondent that the *stare decisis* relied upon by the Court of Appeals in its decision is "probably incorrect," and that illegitimate children may not now be discriminated against.

This is the reason for this appeal for a writ of certiorari. The decedent's illegitimate child has been refused her day in court, solely because of her status. This we reiterate is a violation of her constitutional rights, which must be protected.

BURCHFIELD, SMITH & NELSON
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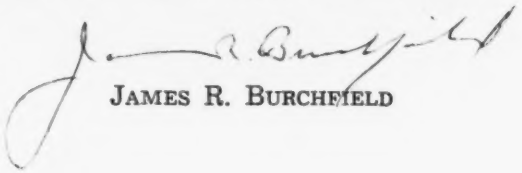
252-1131

CERTIFICATE OF SERVICE

The undersigned attorney for the Petitioner, Alma C. Jacobs, hereby certifies that a copy of the foregoing Reply Brief was served upon the Attorney for the Respondent, James L. Graham, 88 East Broad Street, Columbus, Ohio 43215 this 26th day of March, 1973.



JAMES R. BURCHFIELD